Illinois Commerce Commission Workshop – The Missoula Plan

McLeodUSA
William A. Haas
Vice President and Deputy General Counsel
October 4, 2006

About McLeodUSA

- McLeodUSA is a leading facilities-based provider of integrated voice and data communications services to small- and medium-sized enterprises and residential customers.
- McLeodUSA serves 67 MSAs with our facilities, including 18 of the top 50 MSAs, across 20 states in the Midwest, Rocky Mountain, Southwest and Northwest regions.
- Began serving Illinois customers in 1996.
    - More than 100 operational collocations serving Illinois customers
        - 45 collocations outside of the Chicago MSA
        - Offers local service to more than 150 Illinois cities
- Intercarrier compensation and costs of interconnection facilities are critical to McLeodUSA's ability to provide competitive services.

Overview

- Missoula Plan is not a consensus plan – opposed by consumers, CLEC industry, cable industry, wireless industry, and Verizon.
- Plan does not meet the NARUC or FCC principles for intercarrier compensation reform.
  - Plan does not preserve state authority over intrastate rates
  - Plan undermines competition; rates are not cost-based
  - Plan does not preserve universal service; unsustainable increases in USF
  - Plan does not create regulatory certainty or eliminate arbitrage

Overview (cont’d)

- Plan’s attempt to address multiple issues makes it too complex; omits key implementation details.
- Plan does not meet the requirements of the 1996 Telecom Act for intercarrier compensation and interconnection.

Plan Undermines Competition: Default Interconnection Rules

- Current interconnection agreements require single point of interconnection for each LATA.
  - Ensures level playing field between new entrants and incumbents.
- Plan would allow ILECs to establish multiple “edge” locations in each LATA, and require that CLECs establish additional trunking facilities to each edge.
  - Increase competitors’ cost by requiring them to establish more facilities to more locations, with no net benefit.

Plan Undermines Competition: Default Interconnection Rules

- Increase competitors’ cost by requiring them to establish more facilities to more locations, with no net benefit.
  - McLeodUSA interconnects with AT&T Illinois at the tandem in most instances. McLeodUSA preliminary estimates are that Missoula plan could result in tremendous increases in interconnection costs, to say nothing of the additional transiting costs and revenue reductions this plan would cause.
  - Abrogates competitors’ rights under Act to cost-based interconnection.

Plan Undermines Competition: Default Interconnection Rules

- Current interconnection agreements require both ILEC and CLEC to be responsible for facilities on their side of the point of interconnection, regardless of the direction or flow of the traffic.
  – Essential to competitive neutrality.
- Missoula plan would require CLECs to pay for both CLEC and ILEC’s transport facilities if traffic exceeds a 3:1 ratio.
  – Would allow incumbent to recover its costs twice: once from its customers, and once from the CLECs.

Plan Undermines Competition: Default Interconnection Rules

- Plan significantly increases CLECs' transit costs.
  - Transit essential to ensure all customers connected to PSTN can reach each other.
  - $0.0025 per mou, double for mou over 400K, eventually no cap.
  - Plan removes bottleneck service from state/federal regulation, making subject to commercial agreements.
    - Established track record shows relying on "commercial agreements" is merely a means by which ILECs can use their bottleneck facilities to extract large price increases from CLECs (*e.g.*, Local Wholesale Complete v. UNE-P pricing)

Plan Undermines Competition: Intercarrier Rates

- Reciprocal Compensation Provisions of the Plan would not allow for adequate recovery of carrier costs.
  - Based on State TELRIC proceedings, the Plan rate for Reciprocal Compensation is below-cost. No incumbent has offered TELRIC cost study showing a cost-based rate for transport and termination below $0.0001.
  - Plan rates are not uniform, different rates apply based upon the identity (rural, non-rural, price cap, etc.) of the originating and terminating carriers.
  - Disparity between termination rates and transit rate (primarily paid to ILEC) for identical functions (transport and switching) shows that rates are not uniform, principled, or cost-based.

Plan Undermines Competition: Intercarrier Rates

- The plan enables ILECs, but not CLECs, to offset revenue reductions.
  - ILECs will be able to increase SLCs in areas with little or no local competition, while holding SLCs down in areas experiencing competition.
  - CLECs will not be able to increase their SLCs without losing customers.
  - The burden of increased SLCs will likely fall disproportionately on residential customers who have no or fewer competitive choices.

Plan Undermines Competition: Restructuring Mechanism

- The Restructuring Mechanism is discriminatory.
  - Only ILECs may draw from the RM if their SLC increases do not recover their intercarrier compensation losses.
  - The RM makes ILECs whole for intercarrier compensation revenue losses, regardless of revenue increases and interconnection and transit cost savings realized under plan.
  - The RM is inherently anticompetitive because competitors must match the access charge reductions of incumbents (and in some cases charge even less), without the benefit of the offsetting funds.

The Missoula Plan Should be Rejected

- Upsets settled interconnection rules necessary for local competition.
- No justification to abandon cost-based rates required by the Act.
- Plan should not ensure ILEC revenue replacement at the expense of consumers and competitors.
- Status quo, with vigilant enforcement of existing interconnection rules, would better promote competitive alternatives to ILECs.